

## **REMARKS**

With the present Amendment, claims 17, 19-26, 31-34 and 36-50 are pending. Claims 20, 22, 32, 33, 38, and 43 are withdrawn from consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and species. Such withdrawn claims may still be held allowable, if the claims from which they depend are allowed.

Claims 46-50 have been amended to correct the informalities noted in the Office Action.

Claims 17, 19, 21, 23-26, 31, 34, 36, 37, 39-42, and 44-50 stand rejected under 35 U.S.C., first paragraph as failing to comply with the written description requirement. Applicants respectfully submit that the specification provides more than adequate written description to reasonable convey to one of ordinary skill in the art that the inventors had possession of the claimed invention at the time the application was filed. Support in specification for the language “undulation of resilient material having an elevation with sloped surfaces” is provided on page 14 starting with the paragraph beginning at line 16 and also on page 24, starting with the paragraph beginning on line 12 of the original application.

On page 14, the specification points out that the resilient material has a contour having a sloped shape that promotes fluid movement to another portion or region of the article. Such a disclosure implies to one of ordinary skill in the art that the resilient material is sloped from an elevation above the region of the absorbent article to which the fluid is moved. Further, on page 24 and 25, it is pointed out that the undulation of the resilient material is at a sufficient elevation

to provide movement of the fluid away from a region of the absorbent article and that the undulation has a slope.

Applicants have also amended the claims to reflect that the resilient material is liquid impermeable or liquid repellant. Thus, it is understood that the sloped surface is also liquid impermeable or liquid repellant. Support for “liquid impermeable” or “liquid repellant” is provided in the paragraph beginning on page 14, line 30 of the original specification. Also, support is provided in Examples 2 and 3 starting on page 27, line 23.

Claims 17, 19, 21, 23, 26, 31, 34, 36-37, 39-42, and 44-50 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sauer '336 (U.S. Patent No. 6,017,336) in view of Sauer '300 (U.S. Patent No. 5,527,300) and Grykiewicz (U.S. Patent No. 5,575,785). Claims 24-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sauer '336 (U.S. Patent No. 6,017,336), Sauer '300 (U.S. Patent No. 5,527,300) and Grykiewicz (U.S. Patent No. 5,575,785) as applied to claim 23, and further in view of Odorzynski et al. (U.S. Patent No. 5,879,341).

Applicants respectfully submit that claims 17, 40 and 46 are not rendered obvious by Sauer '336 in view of Sauer '300 and further in view of Grykiewicz.

Claim 17 calls for a composite that defines a front waist section, a rear waist section, and an intermediate section, which interconnects the front and rear waist sections. Each of these sections has one or more regions. The composite includes a vapor permeable backsheet, which defines a Water Vapor Transmission Rate (WVTR) of at least about 1000 grams per square meter per 24 hours. The composite also

includes a liquid permeable topsheet, an absorbent body located between the backsheet and the topsheet, and a surge management layer. At least one undulation of substantially liquid impermeable resilient material is located between the backsheet and the topsheet in a target area above the absorbent body. The undulation of resilient material has an elevation with sloped surfaces so as to direct fluids downwardly along the sloped surfaces of the undulation to the underlying absorbent body without the liquid passing through the undulation.

Claim 40 calls for a composite that defines a front waist section, a rear waist section, and an intermediate section, which interconnects the front and rear waist sections. Each of these sections has one or more regions. The composite includes a vapor permeable backsheet, a liquid permeable topsheet, and an absorbent body located between the backsheet and the topsheet. At least one undulation of substantially liquid repellant resilient material is located between the backsheet and the topsheet in a target area above the absorbent body. The undulation of resilient material has an elevation with sloped surfaces so as to direct fluids downwardly along the sloped surfaces of the undulation to the underlying absorbent body without the liquid passing through the undulation.

Claim 46 calls for a composite that defines a front waist section, a rear waist section, and an intermediate section, which interconnects the front and rear waist sections. Each of these sections has one or more regions. The composite includes a vapor permeable backsheet, a liquid permeable topsheet, and an absorbent body located between the backsheet and the topsheet. At least one undulation of substantially liquid impermeable resilient material is located between the backsheet and

the topsheet above the absorbent body. The resilient material provides for the movement of a fluid away from the intermediate section of the composite in a longitudinal direction or a lateral direction. The undulation of resilient material has an elevation with sloped surfaces so as to direct fluids downwardly along the sloped surfaces of the undulation to the underlying absorbent body without the liquid passing through the undulation.

Sauer '336 teaches away from the amended claims 17, 40, and 46 and thus could not be combined with the other references to render these claims obvious. Sauer '336 discloses a diaper having compressible containment barriers 60 along lateral edges 28 of the intermediate section. The primary purpose of the containment barriers 60 is to prevent the lateral flow of fecal exudates and to create a void above the absorbent body in the intermediate section and/or the "target zone." The undulated containment barriers are oriented sideways to direct the fecal exudates to, and contain the exudates in, the intermediate section and/or the target zone (See, Col. 8, line 66 - Col. 9, line 20). Therefore, by teaching to dispose the barriers on the lateral edges of the diaper to direct and contain the fecal exudates in the intermediate section and/or target zone, Sauer '336 teaches away from having an undulation of resilient material in the target area, as called for in claims 17 and 40, and an undulation of resilient material that directs fluid away from the intermediate section, as called for in claim 46.

Further, based on claims 17, 40, and 46 as amended, the combination or modification of the references would render the primary reference, Sauer '336, inoperable for its intended purpose. MPEP §2143.01 states:

If [the] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.

Because from the facts derived from the references, as set forth below, the suggested combination or modification would render the primary reference inoperable for its intended purpose. Thus, the rejection is unsupported by the art and should be withdrawn.

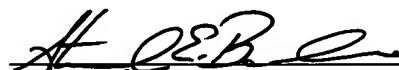
As stated above, Sauer '336 discloses a diaper having containment barriers 60 along lateral edges 28 with the primary purpose being to prevent the lateral flow of fecal exudates by directing the exudates toward and containing it in the intermediate section of the diaper and/or within its target zone. Sauer '300 discloses an absorbent article that includes a surge material 46 in the middle of its intermediate section. This surge material 46 includes contractible members that impart a corrugated appearance with regular or irregular "hills and valleys" to the surge material. Changing the position of the containment barriers 60 from the lateral edges of the diaper as called for in Sauer '336 to the position of the middle of the intermediate section of the absorbent article as called for in Sauer '300 would not prevent the lateral flow of exudates, which is the specific intent of the containment barriers 60. Thus, the intended purpose of Sauer '336 would be destroyed.

For at least the reasons above, Applicants respectfully submit that the independent claims 17, 40, and 46 are patentably distinguishable over any combination of the art of record utilizing Sauer '336 as the primary reference. Thus, Applicants respectfully submit that claims 17, 40, and 46 are allowable. Claims 19-26, 31-34, and 36-39 only further patentably distinguish the unique combination of claim 17 and thus

are allowable over the prior art for at least the reasons claims 17 is allowable. Further, claims 41-45 further define the combination of elements set forth in claim 40 and are allowable for at least the reasons claim 40 is allowable. Likewise, claims 47-50 only further patentably distinguish the unique combination set forth in claim 46 and are allowable for at least the reasons claim 46 is allowable. Applicants respectfully submit that all claims are allowable and that the application is in condition for allowance. Favorable action thereon is respectfully requested. The Examiner is encouraged to contact the undersigned at his convenience to resolve any remaining issues.

Respectfully submitted,

DORITY & MANNING, P.A.

A handwritten signature in black ink, appearing to read 'S. E. Bondura', is written over a horizontal line.

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### **IN THE DRAWINGS**

Applicants have included a corrected drawing sheet that includes changes to Figures 5 and 6. This sheet, which includes Figures 5-7, replaces the previous replacement sheet including Figures 5-7. In Figure 5, previously omitted element 22 has been added. In Figure 6, previously omitted element 20 has been added, while one usage of reference numeral 24 has been replaced with reference numeral 34.

Attachment:            Replacement Sheet